LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 7626 | **NOTE PREPARED:** Jan 9, 2005
BILL NUMBER: HB 1536 | **BILL AMENDED:**

SUBJECT: Workers' Compensation.

FIRST AUTHOR: Rep. Torr | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL | **IMPACT:** State & Local
X DEDICATED
X FEDERAL

Summary of Legislation: This bill requires the Worker's Compensation Board (Board) to amend its schedule of attorney's fees for worker's compensation and occupational disease claims filed after September 1, 2005. It removes "any other good reason" as a reason that the Board may require an employer to pay for physician and medical expenses not provided by the employer. The bill provides that an employee injured or killed by a workplace accident that is not caused by a risk that is: (1) distinctly associated with the employee's employment; or (2) personal to the employee; has the burden of proof that the employee's injury or death is causally related to the employee's employment, and is not entitled to a presumption of causation.

The bill also provides for increases in the average weekly wage used to calculate worker's compensation and occupational disease benefits.

The bill provides that an insurance company is not authorized to do business in Indiana if: (1) voting control or ownership is held in whole or in substantial part by; or (2) the company is operated by or for; a government, a governmental agency, or an entity having a tax exemption under Section 501(c)(27)(B) or 115 of the Internal Revenue Code.

Effective Date: July 1, 2005.

Explanation of State Expenditures: *Attorney Fees:* The bill requires the Worker's Compensation Board to amend its schedule of attorney's fees. Attorney fees, according to the bill, are to be set at the following:
1. A minimum of $100.
2. 20% of the first $10,000 of recovery.

3. 15% of the second $10,000 of recovery.
4. 10% or the recovery over $20,000.

However, the Board maintains continuing jurisdiction over all attorney's fees in claims before the Board and may order a different schedule for a claim. The impact for the Board would be the cost of adopting new rules. The cost could be absorbed within the existing level of staff and resources.

Worker's Compensation Risk: The bill provides that an employee injured or killed by a workplace accident that is not caused by a risk distinctly associated with the employee's employment or is personal to the employee has the burden of proof that the employee's injury or death is causally related to the employee's employment. The bill could reduce worker's compensation payments to employees. The amount of the reduction in unknown.

Medical Expenses: The bill removes "any other good reason" as a reason that the Board may require an employer to pay for physician and medical expenses not provided by the employer. The expenses currently have to be approved by the Worker's Compensation Board. The employer would still be required to pay in case of an emergency or the employer's failure to provide services. The number or amount of medical expenses the Board approved under the "any other good reason provision is unknown. The bill might reduce worker's compensation expenditures by an unknown amount.

Average Weekly Wage: This bill increases the maximum average weekly wage used in the determination of compensation for temporary total disability, temporary partial disability, and total permanent disability from $882 to $900 for FY 2006 and to $930 for FY 2007 and beyond. Medical benefits are determined by the degree of impairment and are not based on the wage. The bill also increases the maximum compensation (exclusive of medical benefits) that may be paid for an injury under the worker's compensation and occupational disease law.

Maximum Compensation: The bill increases the maximum compensation, excluding medical benefits, that may be paid for an injury from $294,000 to$300,000 for FY 2006 and to $310,000 for FY 2007 and beyond.

It is difficult to determine the potential cost of these changes. P.L. 31-2000 included similar types of adjustments, although the magnitude of the adjustments was different. An actuarial analysis of these changes is being performed by the National Council on Compensation Insurance (NCCI). [Note: The results of the actuarial analysis are not currently available. The note will be updated when NCCI finishes their analysis.] According to the Indiana Compensation Rating Bureau, premiums increased by 3.2% for 2005 and decreased by 1.8% for 2004. Premiums for worker's compensation for 2003 were about $748 M.

The impact on the state would be as an employer. For FY 2004, the state paid about $2.5 M in benefits, $2.4 M in FY 2003, and $2.9 M in FY 2002.

Insurance Company: The bill provides that an insurance company is not authorized to do business in Indiana if voting control or ownership is held in whole or in substantial part by government, a governmental agency, or an entity having a tax exemption under Section 501(c)(27)(B) or 115 of the Internal Revenue Code or the company is operated by or for; a government, a governmental agency, or an entity having a tax exemption under Section 501(c)(27)(B) or 115 of the Internal Revenue Code. This portion of the bill should not have a state impact.

Explanation of State Revenues:

Explanation of Local Expenditures: Local governments and school corporations could incur an indeterminable increase in expenses as a result of these proposals (see *Explanation of State Expenditures*). Like the state, most of these units are self-insured and would directly bear any additional costs. For any entities purchasing private worker's compensation insurance, the cost of insurance premiums would likely increase as a result of this proposal.

Explanation of Local Revenues:

State Agencies Affected: Worker's Compensation Board; State Agencies

Local Agencies Affected: All.

Information Sources:

Fiscal Analyst: Chuck Mayfield, 317-232-4825.